

## REMARKS

In the July 21, 2006 Office Action, the Examiner noted that claims 5-28 were pending in the application; and apparently rejected all of the claims under 35 USC § 103(a) as unpatentable over U.S. Patent 6,903,681 to Faris et al. (Reference A in the July 31, 2006 Office Action). However, only claims 1 and 15 were listed in the paragraph numbered 4 in the beginning at the rejection. It has been assumed that this is a typographical error and that all of the pending claims were rejected as discussed on pages 2-13 of the Office Action.

### Request for Examiner Interview

The undersigned wishes to thank the Examiner for taking the time on November 21, 2006 to discuss scheduling of an Interview after consideration of this Amendment. If the rejection based on Faris et al. is not withdrawn as a result of the remarks below, a telephone call from the Examiner would be greatly appreciated, as discussed on November 21, 2006, so that an Interview can be arranged to clarify the remaining issues and expedite prosecution of this application.

### Rejection under 35 USC § 103

Most of the claims have been cancelled and therefore, only the rejection of claims 25-27 and claims 5 and 9 (which have been amended to depend from claim 25) as set forth on pages 11-13 of the Office Action, will be discussed below.

In rejecting independent claims 25, 27 and 28, apparently the first seven columns of the Detailed Description of the Illustrative Embodiments of Faris et al., the last five objects in column 8 (lines 11-57) and a paragraph in the Background of the Invention section (column 2, lines 11-25) were cited. The reason that an Interview was requested is that the rejection failed to identify the teachings of Faris et al. with sufficient specificity to meet the standard that "the particular part relied on must be designated as nearly as practicable" as required by 37 CFR § 1.104(b)(2). Therefore, if the rejection is not withdrawn as a result of this Amendment or the requested Interview, it is submitted that the next Office Action should not be final.

The portions of Faris et al. cited in rejecting the claims have been reviewed and nothing has been found therein which is particularly relevant to the present invention. As discussed in the Amendment filed by Certificate of Mailing on April 3, 2006 and entered by the Request for Continued Examination filed May 3, 2006, claims 25-28 recite a system and method (including instructions to perform the method embodied on a computer-readable medium) which

enables the purchase and sale of commodities at a desirable price and under favorable conditions by disclosing information of commodities, of which the intention for transaction is concealed from other companies until an appropriate time in accordance with the purchase and sale situation of a transaction partner or by using information of commodities which is usually a secret for use in a transaction at an appropriate time

(April 3, 2006 Amendment, page 14, last two lines and page 15, lines 1-4).

The Office Action cited in column 2 of Faris et al. an overview of examples of on-line or web enabled forms of time-constraint competition [which] include: on-line or Internet enabled purchase or sale of stock, commodities or currency ... ; ... auctioning of property involving competitive price bidding ...; and ... competitions among multiple competitors who are required to answer a question or solve a puzzle

(column 2, lines 14-24).

The objects listed in column 8 refer to systems enabling "secure 'on-line' electronic-based securities trading, operations, commodities trading operation, and foreign currency trading operations" (column 8, lines 17-19) with the remaining cited objects containing variations on this general object. The cited portion of the Detailed Description starts by stating that in the system disclosed by Faris et al., "competitors [are] simultaneously presented with the same set of data ... which, in general may be informative or may take the form of a question to be answered or a problem, puzzle or riddle to be solved" (column 13, lines 62-66). In Faris et al. the set of data is "referred to as an Invitation-to-Respond or ITR" (column 13, lines 67 to column 14, line 1). These statements imply that Faris et al. is not directed to providing "information relating to public disclosure indicating whether other transaction partners are allowed access to the commodity prices" (e.g., claim 25, lines 5-6). In fact, the cited portion of the Detailed Description appears to be primarily related to "[t]ypical games implemented using the contest-promoting system" (column 20, lines 33-34) disclosed by Faris et al. The only information which presumably is not disclosed to participants in such an implementation are the answers to the questions. Furthermore, all of the embodiments of Faris et al. appear to place significant emphasis on "time" and to disregard control over disclosure of information based on anything else, which is very significant to the claimed invention.

It is not understood how what was cited in Faris et al. is relevant to the claimed invention. In addition to storing "information relating to public disclosure" (claim 25, line 5) as discussed above, claim 25 recites "a unit searching a for a first commodity identified ... as publicly disclosed" (claim 25, lines 7-8). The Office Action failed to indicate what in the cited portion of the Detailed Description in Faris et al. is believed to correspond to the unit recited on lines 7-11 of claim 25. The drawings discussed in columns 13-20 are Figs. 1, 2 and 2a. The differences

between Figs. 1 and 2 are the labels on the databases and servers. In Fig. 1 the server is labeled "Competition-Promoting" and in Fig. 2 the server is a "Game Server", while the databases in Fig. 1 are a Competitor Database and an ITR/Response Database and in the case of Fig. 2, a Contestant Database and a Query/Answer Database. Fig. 2a corresponds to Fig. 2, without the Web Server, Login Server and Network. Since the present invention is not related to any sort of "game", the embodiment illustrated in Fig. 1 seems to be most relevant of the cited portion of Faris et al., although as discussed below, another portion of Faris et al. may be more relevant to the claimed invention.

The description of Fig. 1 of is consistent with the general characterization of Faris et al. as disclosing "a generalized internetworked-based competition-promoting system ... for fairly and securely enabling one or more time-constrained competitions among a plurality of competitors simultaneously presented with the same set of data (i.e. in a globally time-synchronized manner)" (column 13, lines 59-64). As noted above, that is not the type of system recited in the claims under examination. More importantly, neither the Competitor Database 30 nor the ITR/Response Database 40 of Fig. 1 are described as containing "information relating to public disclosure indicating whether other transaction partners are allowed access to the commodity prices" (e.g., claim 25, lines 5-6), so that information can be identified for a first commodity that is "stored in said first registered commodity data storing unit as publicly disclosed" (e.g., claim 25, lines 7-8). The Competitor Database 30 is described as recording "information about each competitor, such as his or her identity, preferences, contact information ..." (column 15, lines 42-43) while the ITR/Response Database 40 is described as storing and generating "Initiations-To-Respond (ITRs) appropriate to the particular competition being promoted" (column 15, lines 45-48).

Furthermore, no suggestion has been found that either the Competition-Promoting Server 50 or the Client Machines 160 perform any "searching for a first commodity identified ... as publicly disclosed" (e.g., claim 25, lines 7-8). Rather, the Competition-Promoting Server merely provides for communication of the ITRs and Responses to and from the client machines. The Primary Server 100 in Fig 1 is described as "acting as a source of Invitation-to-Respond and other competition related data; providing a master clock for the system; and performing functions or operations involving data received from multiple client machines connected to the system" (column 14, lines 63-66). The description of the primary server in the embodiment illustrated in Fig. 2 is similar, "acting as a source of queries and their correct answers; providing a master clock for the system; determining the over all ranking contestants; selecting the winner

of the contest; and informing the contestants and possibly the general public of the winning (sic) contestant" (column, 17, line 65 to column 18, line 3).

Only one mention of any sort of trading being performed by the system disclosed in Faris et al. has been found in the cited portion, specifically "on-line real-time trading of securities" (column 14, lines 22-23). Elsewhere in Faris et al. it is noted that the system disclosed by Faris et al. can be used under "changing supply and demand conditions in a market as in the case of real-time securities, commodities, or currency trading, or other forms of real-time and non real-time auction processes" (column 24, line 67 to column 25, line 3). This may be done using the "enhanced version of the GSU" described at column 25, line 6 to column 26, line 36 with reference to Figs. 2D4 and 2D5 where the enhanced GSU" refers to "a global synchronization unit" (e.g., title). The enhanced GSU 177 is illustrated in Fig. 2D4 as connected to the Internet via one of the client machines.

What appears to be most relevant to the claimed invention in Faris et al. is the embodiment illustrated in Fig. 5 which is described as "a schematic representation of a financial trading-based embodiment of the system" (column 12, lines 33-34). Figures 5, 5A and 5B are described at column 45, lines 20 to column 50 line 34. The failure to cite this portion of Faris et al. in the July 31, 2006 Office Action is an additional reason why the next Office Action should not be final.

Rather than being concerned with "whether other transaction partners are allowed access to the commodity prices" (claim 25, lines 5-6), the embodiment described in columns 45-50 of Faris et al. is concerned with "secure and precise calculation of time and space stamps for events that occur at a client machine. These stamps are digitally signed so that they may be authenticated and to make them resistant to forgery" (column 45, lines 23-27). The "important aspect of securities trading ... the ability to view and monitor price quotes for securities and to view and monitor information about trades and other transactions involving those securities" (column 45, lines 36-39) is discussed primarily with respect to the system's ability to "compensate for network latency when producing ... delayed quotes" (column 45, lines 45-46) to enable "simultaneous display of price quotes to millions of competitors world over" (column 45, lines 52-53). The system also enables "secure time and space-stamping of client machine-based activities such as the submission of offers to buy and sell securities, options or the like" (column 45, lines 57-60).

Similar to the embodiments illustrated in Figs. 1 and 2, the commodity trading embodiment illustrated in Fig. 5 includes a primary server 100 having "the ability to assign certain rights

to traders, to change trader quote delays, and other such activities" (column 46, lines 25-27) and communicates "with the client machines through a number of real-time price-quotation and trading servers ... [which] relay quotes and other financial data to the client machines 160 and receive trade requests [there]from" (column 46, lines 29-32). According to the first paragraph in column 47, traders obtain information prior to performing trades by accessing a conventional website. No suggestion of storing information "indicating whether access by other transaction partners is allowed" (e.g., claim 28, lines 5-6) has been found in the description of the embodiment provided in columns 45-50 of Faris et al. Only distributing "updated price quotations at a common 'start-time' regardless of the location of his or her client machine" (column 47, lines 55-57), "so that the system presents the price quotation updates to each trader precisely at the same globally-synchronized start-time" (column 48, lines 20-22). The remainder of column 48 and columns 49 and 50 describe details of how the time at which information is received by client machines is precisely controlled, taking into consideration factors including precise location of the client machine and communication bandwidth. As discussed above, this is not particularly relevant to the present invention.

Nothing has been found in columns 45-50 of Faris et al. that is more relevant to the claimed invention than the other embodiments cited by the Examiner and discussed above. Therefore, it is submitted that claim 25, as well as claims 5, 9 and 26 which depend therefrom, patentably distinguish over Faris et al. for the reasons discussed above. The limitations recited on lines 5-8 of claim 25 which were quoted above (see the next paragraph for similar limitations in claims 27 and 28) require that the information searched for be identified as publicly disclosed, while other information is not publicly disclosed. A system in which all information is publicly disclosed as taught by Faris et al. does not meet the searching criteria recited in claim 25, because there is no distinction between data which is publicly disclosed and data which is not publicly disclosed.

Using words similar to those in claim 25, claims 27 and 28 recite "information relating to public disclosure, indicating whether other transaction partners are allowed to access the commodity prices" (claim 27, lines 5-6) or "information relating to public disclosure, indicating whether access by other transaction partners is allowed" (claim 28, lines 5-6) and "searching for a first commodity identified ... as publicly disclosed" (claim 27, lines 9-10) or "searching for the information identifying a first commodity ... as publicly disclosed" (claim 28, lines 7-8). No suggestion of distinguishing data based on whether it is publicly disclosed has been found in the embodiment described in columns 45-50 or anywhere else in Faris et al. Therefore, all of the claims patentably distinguish over Faris et al. for the reasons discussed above.

**Summary**

It is submitted that Faris et al. does not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 5, 9 and 25-28 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: /Richard A. Gollhofer/

Richard A. Gollhofer  
Registration No. 31,106

1201 New York Avenue, NW, 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501